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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,947	09/17/2001	Bjorn Hamsten	ALBIHN-407	2562
530 7590 04/30/2007 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER HESS, DOUGLAS A	
			ART UNIT 3651	PAPER NUMBER
			MAIL DATE 04/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/857,947

Applicant(s)

HAMSTEN, BJORN

Examiner

Douglas A. Hess

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on RCE of January 31, 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-25, 27-29, 32-37, 40-44, 46-50 and 52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33, 37, 40, 47-50 and 52 is/are allowed.
- 6) ☒ Claim(s) 21-25, 27-29, 32, 34-36, 41-44 and 46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: The amendment to (paragraph 0026) on page 7, submitted in the amendment of April 7, 2006, on line 12, it appears "shifting unit 3" should be changed to ---shifting unit 6---.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 21-25, 27-29, 32, 36, 41-44, and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### **CLAIM 21**

In claim 21, line 17, the phrase "proper shifting" is confusing. The use of the term "proper" is unclear and confusing. There is no reference point as to what is considered proper and not proper.

In claim 21, at the end of the claim, to clarify the area where the counting takes place, the examiner suggests adding ---passing through the shifting device--- at the very end of the claim.

#### **CLAIM 25**

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In claim 25, line 2, "further comprising" is somewhat confusing because the claim states that the "apparatus further comprises" a means for controlling the speed which is partially true. More specifically the control device appears to further comprise the means for controlling the speed. It appears the claim would be clarified if changed to ---The apparatus according to claim 21, wherein the control device further comprises.....---.

Also, the term controlling the speed would be less confusing if it were changed to ---varying the speed---. The term controlling could be interpreted as maintaining the same speed which is not the case, so the use of varying clarifies the fact that the speed can be and is changed.

#### **CLAIMS 28 AND 36**

Claims 28 and 36 are confusing because the incoming feeder track is claimed to be arranged at a varying speed. Independent claims 21 (lines 5-7) and 33 (lines 5-7) state, "said incoming feeder track including a first transport device for controlling and feeding said units at a predetermined speed". It is confusing by stating the speed is predetermined which suggests a single speed. In claims 28 and 33, the speed is said to be "varying". The examiner suggests that claim 21 be amended to read:

On line 7, change "at a predetermined speed" to ---at predetermined variable or constant speeds---. The examiner feels this change to claim 21, would more clearly distinguish claim 21 over the previously cited prior art. Furthermore, claim 28 would be acceptable in its current state if the change to claim 21 is made.

RE claims 33 and 36, claim 33 can remain unchanged if claim 36 is canceled. However, if claim 36 is to remain, then claim 33 should be amended as suggested in the above paragraph with the same changes suggested in claim 21.

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**CLAIM 33**

In claim 33, at the end of the claim, to clarify the area where the counting takes place, the examiner suggests adding ---passing through the shifting device--- at the very end of the claim.

***Allowable Subject Matter***

4. Claim 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
5. Claims 22-25, 27-29, 32, 36, 41-44, and 46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
6. Claims 33, 35, 37, 40, 47-50, and 52 are allowed.

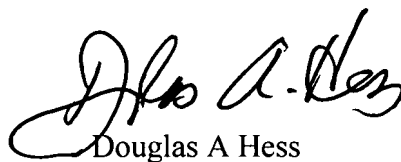
***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Douglas A Hess  
Primary Examiner  
Art Unit 3651  
4/25/07

DAH  
April 25, 2007